

SELECTMEN'S MEETING MINUTES

December 27, 2011

Members Present: Larry Harrington, Chairman
James J. DeVellis, Vice Chairman
Mark Sullivan, Clerk
Lorraine Brue
Lynda Walsh

Others Present: Kevin Paicos, Town Manager
Robert Cutler, Town Clerk
Attorney Paul DeRensis
John Gray, Chairman, Advisory Committee

The meeting at the Foxborough High School was brought to order by Larry Harrington, Chairman.

Before opening the meeting Chairman Harrington gave answers to some questions regarding the order of the meeting – Under State Law residents and non residents alike are allowed to speak at public meetings; the Chairman has the right to prohibit signs inside the meeting facility, Citizens' Input is allowed at regular scheduled meetings, not necessarily at other meetings. Larry Harrington said he would allow 10 to 15 minutes for Citizens Input at this meeting and he might extend the time because more people will want to be heard; he would increase the time to 30 minutes. He asked that people be respectful or he would ask that they be removed so that others would have the chance to speak; he asked that no time be wasted on applause or booing. The Chairman said there are two Public Hearings to be heard before Citizens' Input would be heard.

7:10 - Public Hearing - Permanent Restraint Order – Mark Sullivan, Clerk, read the Public Hearing Notice. The purpose of this Public Hearing was to consider the permanent restraint of a Golden Retriever, Moose, owned by Paul and Nora Tooher, 76 Lakeview Rd., Foxborough.

Kevin Paicos, Town Manager, notified the Board that the Animal Control Officer has asked that the Board make permanent the interim restraint order unless the Board considers a harsher judgment. The owners of the dog, Moose, have agreed to the permanent restraint order.

Motion to close the Public Hearing by Mark Sullivan. Seconded by Lynda Walsh.
Vote: 5-0-0

Motion by Jim DeVellis that the interim order be made permanent that the dog, Moose, be confined to the owner's property at all times, shall wear a basket muzzle and held on a leash not longer than six feet by a responsible adult whenever taking the dog

off the property, except when transported in a motor vehicle. Seconded by Linda Walsh. **Vote: 5-0-0**

Motion by Jim DeVellis that the owners of the Golden Retriever, Moose, adhere to the details as stated in the two letters, 11/29/11 and 12/14/11 from the Animal Control Officer. Seconded by Lynda Walsh. **Vote: 5-0-0**

7:15 – Change of Manager at Renaissance Hotel - Application for Change of Manager at the Renaissance Hotel & Spa, 28 Patriot Place to be approved and signed by the BOS was received. Mr. Jeffrey Roike, the new manager, was present to answer any questions by the Board.

Mr. Roike gave a brief review of his 29 years of experience in managing restaurants and hotels primarily on the East Coast. He has been with the Renaissance Hotel & Spa since July, 2011. A brief discussion ensued.

Motion by Lynda Walsh to approve the application for a Change of Manager as submitted by the Renaissance Hotel & Spa; the new Manager, Jeffrey Roike subject to successful CORI check. Seconded by Lorraine Brue. **Vote: 5-0-0**

7:20 – Citizens' Input – Chairman Harrington opened the meeting to those who wished to be heard. Approximately 30+ people spoke, the majority gave their reasons for not allowing a presentation or a casino resort in the Town of Foxborough; they were not in favor of going any further with more meetings or votes. Some of the speakers were in favor of at least hearing what the developer is going to propose, to then be given the opportunity to make an informed decision. There were people from Mansfield, Walpole and Sharon asking that the Town of Foxborough seriously consider how a casino would impact their towns. It was pointed out that the surrounding towns would not have a ballot vote on the issue and that is a fact that Foxborough needs to keep in mind. Among the speakers were Dan Flynn, 400 Foxborough Boulevard, Roslyn Liftman, 9 Independent Drive, Tim Maloof, 12 Morse Place, Jennifer Fedor, 28 Chestnut Street, David Egilman, 90 West Street, Paul Mortenson, 9 Alger Road, Timothy Sullivan, 171 Beach Street, Michelle Paluzzi, Tucker Lane, Nancy Company, Messenger Ave., Helen Merigan, 304 Central Street, and Chris Olson, Bird Street. Most of the speakers were orderly and spoke in a civil manner. At times temperaments flared and the Chairman had to call for order on several occasions.

Chairman Larry Harrington read a prepared statement to clear any misconception regarding his integrity and any ideas that he might have been influenced by Robert Kraft and Steve Wynn regarding his position on the proposal for a casino resort in Foxborough. He said these charges are ridiculous to a point of defamation and libel. He said neither he nor any other member of the Board had been pressured in any manner. He said those who want to see what the developer is proposing should have the opportunity to do so. He pointed out that in the end he would trust the voters in Foxborough to make the right decision, but he does not want people to feel afraid to speak out.

Selectman Lynda Walsh reminded the people that she is on the Board by a majority vote to represent all of the town residents. Although she has been the recipient of cutting remarks during the BOS meeting of 12/13, she would continue to protect and “do what I believe is best for our town and its citizens”. Lynda pointed out that she changed her previous vote taken in September because she felt the Board had acted too quickly without enough input from the citizens. She said that vote was based on fears of what could happen to the Town of Foxborough. She feels that the Town needs to at least allow the Wynn Resort to present their proposal “not only as a courtesy to Mr. Kraft but in order to protect us legally by upholding the Kraft Group’s rights as property owners”. She publicly denounced any inference that she was being influenced by outside sources. She said “that is simply not the case.”

Selectman Lorraine Brue read a prepared statement; she had been inundated with numerous contacts from residents who continue to express their concerns against the proposed casino. She said she had given a great deal of thought on all the proactive steps the Town has taken to date that has put the Town in a good position to prevent a casino from being developed. She referred back to the extensive study done in 2004 pointing out that the vote was to not permit gaming at a racino as well as to not allow gaming as a permitted zoning use for any business in Town. She noted a vote taken by Planning Board to not go forward with a rezoning change for presentation at the December Special Town meeting; leaving open an option to Wynn Resorts to present the issue to the BOS for consideration. On 9/6/11 the Board voted unanimously against moving forward with a review of the zoning proposal thus reaffirming the position of the Planning Board. She said the Building Commissioner had “filed the opinion that current zoning does not permit gaming anywhere in the Town.” On 12/13/11 with a majority vote the BOS changed their position suggesting that the Town entertain a proposal from the developer. Lorraine pointed out that at the meeting on 12/14/11 the Advisory Committee after discussing the present economy and the long term costs to the Town, asked the BOS to reconsider their vote. She said “Given future costs, and more importantly, the historically stated desire to maintain the character of the Town by not permitting a business use such as gaming, I support Advisory Committee’s request.”

Motion

Motion made by Selectman Lorraine Brue seconded by Selectman DeVellis:

That the Board of Selectmen dispatch a letter to Governor Deval Patrick, Stephen Crosby, Massachusetts Gaming Commissioner, Robert Kraft and Steve Wynn informing them that the Town of Foxborough is not willing to be a host community for a casino and that this Board will not enter into any review or negotiations regarding such a proposal.

Discussion of Motion

Selectman DeVellis said that at the very beginning the majority of emails were passionately against a casino for many reasons. After reviewing all the history he said he realized that a casino was not something that Foxborough wanted. He pointed out that the State had “dropped” the decision on the towns with the intent that the revenue would remain in Massachusetts. What the State did not take into consideration is that the towns are not equipped to deal with this issue. He added that the towns of Walpole, Plainville, Mansfield and Norton would not support the proposal. He said the Board takes the responsibility very seriously, in fact, he said he has spent more time on this than he has with his family or his full time job. He has heard, “loud and clear”, that the Town does not want this and the Board has the opportunity “to end this tonight.” His vote is “No” to any further meetings.

Selectman Sullivan said that he also had received as many calls and emails as other members of the Board. He said he had been accused by a standing member of the Board that he had something to do with the Foxborough police and that he had been part of the plan that threatened families. Selectman Sullivan addressed his comments directly to Selectman Brue. He said he is furious that anybody would accuse him of acting inappropriately. He said he does not question other Board member’s actions or votes. He explained that he did talk with Jonathan Kraft asking to “take the proposal away” because it is “ripping the Town apart”. He felt that in doing so he was “acting like a good citizen”.

Selectman Brue responded to Selectman Sullivan’s comments by stating that Mark is wrong in stating that she accused him of being involved in the threats on her family. She suggested that together they meet with Chief O’Leary to discuss whatever Selectman Sullivan has heard that he was being accused of inappropriate action.

A lengthy discussion of casinos ensued.

Attorney Paul DeRensis reviewed the Massachusetts Gaming statute for the Board’s benefit. He pointed out that it is 60 pages of a very complicated law but he explained how it applies to Foxborough and presented a power point presentation.

Selectman Harrington asked if the Town would be expected to “hold off” on being a host community if no agreement with surrounding towns could be reached. Attorney DeRensis answered “no” and explained that it was the applicant who had the responsibility to deal with the surrounding towns and if no agreement could be reached, the State Gaming Commission would intervene to try to facilitate agreements with surrounding communities.

Town Manager Paicos suggested he try to pull this all together.

- 1) If a meeting were to be scheduled for 01/10/2012 the Town would need a two to three week window for a proposal to be made by Wynn Resort. It would depend on whether or not the high school would be available. Town Manager

Recommendation – If the applicant wanted to make any presentation, the applicant should make a presentation at the Stadium.

- 2) If the applicant were willing to hold the presentation at the Stadium. There would be at no cost to the Town and there would be no non-binding ballot.
- 3) If the issue is presented to the Town at a STM or as a non-binding ballot question, that approach would be costly for the Town.

Town Manager Recommendation – That Wynn/Kraft bear any costs incurred by the Town. Bob Cutler, Town Clerk explained in detail the legal requirements associated with a ballot question noting that the first requirement for a non-binding referendum is that such referenda are limited to regular municipal elections. Such a required election would not happen until 5/7/2012. The Town could file a petition for a STM to deal with the zoning issue.

The Town Manager presented a recently received letter from Wynn Resorts, dated Dec. 26, 2011 and Dan Murphy of the Kraft Organization. Letter to follow at the end of these minutes.

Further discussion was held in response to the email from Dan Murphy, noting especially that the Wynn Resorts expects the legal process to be followed and that the Kraft Group wants all parties to have the opportunity to hear the proposal and then make a decision. Mr. Paicos said he had contacted Attorney John Towhig, the attorney for the Kraft Organization to explain that the Town in no way advocates going any further with this proposal, that any non-binding ballot vote would not occur until May, 2012 if at all and that there is still the zoning by-law to consider. Mr. Paicos said that an RFP should be issued for an attorney specializing in this area of law. He suggested the Town move on that immediately given that the process takes two to three months.

Selectman Brue inquired whether the gaming laws require any particular action by the Town if it does not want to enter into a host community agreement. Attorney DeRensis pointed out that there is nothing in the gaming regulations in terms of required findings that the Town does not want to be considered as a host community. Selectman Brue explained that she wants any costs associated with reviewing the proposal to be covered by the applicant. Attorney DeRensis pointed out that the statute authorizes the Town to obtain a commitment to make sure the costs are going to be covered.

Town Manager Paicos noted that the legislation requires that zoning be in place and submitted as evidence with an application. He suggested having a non-binding ballot question right away, as soon as it can be facilitated, should there be a reversal of the zoning vote taken in 2004. If any change in zoning is defeated, it could not come up again for two years. Attorney DeRensis suggested that he be authorized to work with the Zoning Board to write up a by-law to address this issue including hotels, etc.; to develop a safe zoning change that would not leave the Town in jeopardy.

Selectman DeVellis expressed frustration on where the Board discussion was going; the Board has started looking at follow-up meetings under the premise that the Board is being courteous. He said listening to the information received regarding binding or non-binding referendum question, the Town is not interested. Selectman DeVellis pointed out the process as stated is that Wynn Resorts would follow the rules and file an application; he asked why the Board was entertaining anymore meetings and now the Board is talking about re-affirming the zoning vote. He suggested waiting until the application is submitted and then start looking at the zoning. He said it doesn't make any sense to him. Attorney DeRensis said the Town should follow the law and confirmed the timeline for applications. Selectman DeVellis asked for confirmation from Town Counsel that according to the Gaming Legislation, the Town of Foxborough does not issue or have any control or jurisdiction of any and all liquor licenses issued to a casino. Attorney DeRensis confirmed this.

John Gray, Advisory Committee Chairman, explained that the Committee had a conversation with the former Mayor of Ledyard, Ct. regarding the impact on that town. He said the question remains whether or not the Town wants to be a host community; if the answer is "yes" then the Town must move to step #2 to allow a hearing on the applicant's "sales pitch". The consensus of the Advisory Committee is that there should be a STM with a zoning ballot question that would settle the issue. The Committee is concerned about the costs associated with proper vetting of this issue.

Selectman Harrington said that he does not believe the Town risks anything in discussions with the Wynn Group relative to Foxborough being a host community. He pointed out that it would be important to have such a discussion so that the public could hear all aspects of the issue. He said there are a large number of people who want to know more and he thinks it is unfair not to help them understand things such as mitigation costs, etc. It is important to have such dialog with the applicant to help voters to make informed decisions. He said at the end of the day, it is the voters who will make the decision. *

Vote on Motion

Vote on the motion as made earlier in this meeting to send a letter to Governor Patrick informing them that the Town of Foxborough is not willing to be a host community and will not enter into any review or negotiations regarding such a proposal.

Vote: 3-2-0 Lorraine Brue, Jim DeVellis and Mark Sullivan - in favor.
Larry Harrington and Lynda Walsh – opposed.

ACTION:

Minutes: The Minutes for the Board of Selectmen's meetings of November 22, December 6 and December 13, 2011 were reviewed.

Motion by Lynda Walsh to approve the Minutes of November 22, 2011 as amended. Seconded by Jim DeVellis. **Vote: 5-0-0**

Motion by Lorraine Brue to approve the Minutes of December 6, 2011 as amended. Seconded by Lynda Walsh. **Vote: 5-0-0**

Motion by Lynda Walsh to approve the Minutes of December 13, 2011 as amended. Seconded by Lorraine Brue. **Vote: 5-0-0**

Violation of Class II Auto License – Received from William Casbarra notice of a violation of Class II Auto License at Foxboro Automotive, 10 Main Street.

Motion by Lynda Walsh to authorize the Town Manager to schedule Public Hearing on the violation of the Dealer's License – Class II as notified by William Casbarra, Building Commissioner. Seconded by Jim DeVellis. **Vote: 5-0-0**

Acceptance of Pfizer Foundation Award – Received from Vicki Lowe, C.O.A. Director, notice of receipt of a grant award from Pfizer Foundation Volunteer Program in the amount of \$1000.00.

Motion by Jim DeVellis to accept the Grant Award from the Pfizer Foundation Volunteer Program in the amount of \$1000.00. Seconded by Lorraine Brue. **Vote: 5-0-0**

C.O.A. Donation – Received from Vicki Lowe, C.O.A. Director, notice of receipt of donation in the amount of \$400.00 from the Rabboni Royal Arch Chapter of North Attleboro to be deposited into the gift account.

Motion by Lynda Walsh to accept the donation in the amount of \$400.00 from the Rabboni Royal Arch Chapter of North Attleboro to be deposited in the gift account. Seconded by Lorraine Brue. **Vote: 5-0-0**

Foxboro Historical Commission Donation – Received from the Foxboro Historical Society a donation to the Foxborough Historical Commission Gift Fund a donation in the amount of \$1,000.00 for FiteMaher Software.

Motion by Lorraine Brue to accept the donation of \$1,000.00 from the Foxboro Historical Society for software for the Foxborough Historical Commission Gift Fund. Seconded by Jim DeVellis. **Vote: 5-0-0**

Resignation and Appointment Request – Received from Paul Beck on behalf of Foxboro Cable Access notice of the resignation of Bob Hickey from FCA and that he assume a vacant seat in order that he can continue as the Treasurer and Financial Advisor and a request that the BOS appoint Lynda Walsh as the replacement member, representing the Selectmen on a direct and permanent basis.

Motion by Lorraine Brue to accept the resignation of Bob Hickey from FCA and assume a vacant seat as requested and to appoint Lynda Walsh as the replacement member, representing the Selectmen on a direct and permanent basis. Seconded by Jim DeVellis. **Vote: 4-0-1** Lynda Walsh abstained.

Regional Veterans Services Officer Agreement – Received from Michael Johns, Veterans Service Agent an executed copy of the Agreement between the Towns of Mansfield, Foxboro, Norton and Easton creating the Crossroads Veterans Service District. A brief discussion was held.

Motion by Jim DeVellis to authorize the Town Manager, Kevin Paicos, to sign the Agreement as submitted. Seconded by Lorraine Brue. **Vote: 5-0-0**

2012 License Renewals – Received for approval the list of the 2012 License Renewals. List of license renewals to follow.

Motion by Lynda Walsh to approve the 2012 License Renewals as submitted. Seconded by Lorraine Brue. **Vote: 5-0-0**

Position of Water Superintendent – Received from William Euerle, Water/Sewer Commissioner notice that the Water Superintendent's position be advertised and filled with a qualified full-time employee. A brief discussion was held no further action by BOS was required.

Motion by Jim DeVellis to adjourn. Seconded by Mark Sullivan.
Vote: 5-0-0 Meeting adjourned at 11:30 p.m.

Mark Sullivan, Clerk

* The following addition to page 77 of the minutes of the December 27, 2011 Board of Selectmen's meeting was approved by the Selectmen on February 14, 2012:

"When asked by Mr. DeVellis if the board of Selectmen voted tonight in the negative, are we opening up the Town of Foxboro or the Board of Selectmen members as individuals to a lawsuit, Attorney DeRensis stated that there is no liability because the vote is not binding and is an expression of where the Board is at this time. If a lawsuit was filed, it would not be a meritorious lawsuit."